



**HOMELAND SECURITY ADVISORY  
COUNCIL**

**Final  
Emergency Interim Report  
CBP Families and Children Care Panel**

**April 16, 2019**

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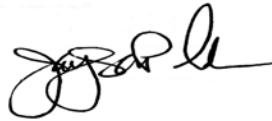
This publication is presented on behalf of the Homeland Security Advisory Council, CBP Families and Children Care Panel, Chaired by Administrator (Ret.) Karen Tandy, Drug Enforcement Administration and Vice Chaired by Jayson Ahern, Principal and Head of Security Services, The Chertoff Group, as the Emergency Interim Report to the (A) Secretary of the Department of Homeland Security, Kevin McAleenan.

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## TABLE OF CONTENTS

|  |    |
|--|----|
| EXECUTIVE SUMMARY .....                                      | 1  |
| KEY FINDINGS.....  | 1  |
| KEY RECOMMENDATIONS.....                                     | 2  |
| INTRODUCTION .....   | 4  |
| KEY FINDINGS.....  | 6  |
| EMERGENCY RECOMMENDATIONS .....                              | 9  |
| CONCLUSION.....  | 16 |
| APPENDIX A: FAMILY UNIT APPREHENSION DATA.....               | 17 |
| APPENDIX B: PANEL MEMBER BIOGRAPHIES .....                   | 18 |
| APPENDIX C: TASK STATEMENT.....                              | 23 |
| APPENDIX D: SUBJECT MATTER EXPERTS AND OTHER WITNESSES ..... | 25 |
| APPENDIX E: MEETINGS AND SITE VISITS .....                   | 29 |
| APPENDIX F: REFERENCES .....                                 | 30 |
| APPENDIX G: GLOSSARY .....                                   | 34 |

## EXECUTIVE SUMMARY

There is a real crisis at our border. An unprecedented surge in family unit (FMU) migration from Central America is overwhelming our border agencies and our immigration system. This crisis is endangering children. In too many cases, children are being used as pawns by adult migrants and criminal smuggling organizations solely to gain entry into the United States (U.S.). Because 40% of the U.S. Customs and Border Protection (CBP), U.S. Border Patrol's (USBP) resources are currently absorbed in dealing with this crisis, the USBP is not able to effectively manage its other border security missions -- apprehending migrants illegally seeking to evade detection, including criminal aliens and those who pose a public safety or national security threat, uncovering instances of trafficking, fraudulent family relationships and other criminal activity among this population, and monitoring the border for drug smuggling and other contraband. To cover this gap, CBP will need to re-assign an increasing number of CBP officers stationed at ports of entry to assist the USBP in handling the surge in FMU migration.

The surge in FMU migration will continue to soar, endangering more and more children making the treacherous 2,000 mile trek to our border and crossing illegally into the U.S. at dangerous and remote areas between ports of entry (POE), until the dynamics causing this trend are changed. This change requires emergency action by the U.S. Government (USG). The changes proposed by this bipartisan Panel, if all of our recommendations are implemented, could dramatically reduce migration of FMUs from Central America, help to eliminate dangerous and illegal border crossings, as well as improve the care of children who are brought on this harrowing journey by an adult. Implementing these recommendations is essential for the safety and welfare of children living in Central America and elsewhere who will continue to make this dangerous trek and risky border crossing until the USG implements the emergency actions we propose.

### Key Findings

As the findings in our report reflect, the large-scale influx of FMUs is new, having increased dramatically in the last year by 600%. Over 53,000 FMU were apprehended last month alone by the Border Patrol, and at the current trajectory, that number of FMU apprehensions is likely to exceed 500,000 in Fiscal Year (FY) 2019.

After being held for several days at inadequate and overcrowded holding areas at USBP stations, most of the adults -- *provided* they have a child with them and have stated that they fear returning to their country of origin -- are issued Notices to Appear (NTA) at a later time before an immigration judge somewhere in the U.S. and then dropped at a local bus station or delivered to already overwhelmed non-profit shelters. The NTA, combined with long delays in the adjudication of asylum claims, means that these migrants are guaranteed several years of living (and in most cases working) in the U.S. Even if the asylum hearing and appeals ultimately go against the migrant, he or she still has the practical option of simply remaining in the U.S. illegally, where the odds of being caught and removed remain very low. A consequence of this broken system, driven by grossly inadequate detention space for family units and a shortage of transportation resources, is a massive increase in illegal crossings of our borders, almost entirely driven by the increase in FMU migration from Central America.

By far, the major "pull factor" is the current practice of releasing with a NTA most illegal migrants who bring a child with them. The crisis is further exacerbated by a 2017 federal court order in *Flores v. DHS* expanding to FMUs a 20-day release requirement contained in a 1997 consent decree, originally applicable only to unaccompanied children (UAC). After being given NTAs, we estimate that 15% or less of FMU will likely be granted asylum. The current time to process an asylum claim for anyone who is not detained is over two years, not counting appeals.

### Key Recommendations

To address this crisis in the near term, we recommend a different model for processing FMUs who have crossed our border illegally. While this model cannot be fully implemented without Congressional support, some parts of the model can and should be implemented by the executive branch now and without delay, while Congress considers and enacts the emergency legislation and supplemental appropriation recommended below. Although our full recommendations are reflected in the Interim Report, highlights of our key recommendations are as follows:

#### **Regional Processing Centers:**

1. Establish and staff 3 to 4 Regional Processing Centers (RPCs) along the border, scalable and with sufficient capacity to shelter all FMUs apprehended at the border and, among other things, provide safe and sanitary shelter, to include medical screening and care, credible fear examinations, vetting for identity and familial relationship, and evaluations for public health and safety, national security and flight risk.
2. Resource and require transport from USBP stations and POEs of all FMUs to an RPC, within 24 hours or less of apprehension.
3. Recommendations 1 and 2 will require an emergency supplemental appropriation with funding to cover the costs of, among other things, erecting and staffing the RPCs, transportation to RPCs to meet the 24-hour requirement and providing health care for minors. We recognize that this may require a supplemental of several billions of dollars for construction and administrative costs, but it is the only way to ensure treatment of migrant children that conforms to our values.
4. Until the RPCs can be established, steps should be taken immediately to relieve the POEs and USBP of all tasks unrelated to their law enforcement mission. That is, all transportation, medical, feeding and caring for migrants should be the responsibility of non-CBP professionals who provide such services, whether by contract or applicable emergency government relief services. These are national security costs that should be included in the emergency supplemental budget request.

#### **Congress Should Enact Emergency Legislation to:**

5. Achieve Faster Asylum Processing. At a minimum, legislation is needed to modify asylum procedures, at least temporarily, so that a hearing and decision can be provided to family members within 20 or 30 days. We also are recommending that Congress immediately fund a substantial increase in immigration judges.
6. "Flores Fix" -- Roll back the *Flores* Decision by exempting children accompanied by a parent or relative, who is acting as the guardian of the child. DHS also should be given discretion to detain a close relative with a non-parent family member when this is in the best interest of the child.



7. Amend Section 208 of the Immigration Nationality Acts (INA) to require that border crossers make asylum claims at POEs. Simultaneously, CBP will be resourced to begin processing all asylum claims initially presented at a POE and put an end to metering. This can and should occur promptly after this recommendation and Recommendations 1 and 2, above, are implemented.
8. Amend the Trafficking Victims Protection Reauthorization Act (TVPRA) to permit repatriation of any child when the custodial parent residing in the country of origin requests reunification and return of the child. Currently, this is not permitted by the statute.

**Emergency Regulatory Action:**

9. Enable CBP to take photographs and biometrics of children of any age in order to stem the recycling of children at the border and to rapidly determine the legitimacy of parentage claims.
10. Because the expansion of *Flores* is contributing to the flow of accompanied children, many who are of tender age, DHS should act promptly to limit it by emergency regulation until Congress acts on Recommendation 6 above.

**Medical and Child Exploitation Safeguards:**

11. Office of Field Operations (OFO) POEs and USBP stations should be supplemented by contracted medical and transport professionals.

**International Action:**

12. Enter into a North America Family Protection Initiative with Mexico that includes the elements of a Safe Third Agreement.
13. In cooperation with Guatemala, establish a secure shelter to process asylum claimants from Central America in Guatemala, proximate to the Guatemala-Mexican border.

## INTRODUCTION

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By letter of October 4, 2018, then Department of Homeland Security (DHS) Secretary Kirstjen Nielsen asked the Homeland Security Advisory Council (HSAC) to examine the care of families and children in the temporary custody of CBP, including its component division, the USBP.<sup>1</sup> The HSAC created a CBP Family and Child Custody Panel (hereafter the “Panel”) as a subcommittee of the HSAC to “provide findings and recommendations on the best practices of other federal, state and local organizations regarding care for families and children in CBP custody.” As part of the Secretary’s direction, the Panel was directed to conduct border visits and interviews to observe and understand CBP’s “unique operating environment and infrastructure,” meet with experts to identify best practices for the processing and care of children in custody, and recommend any needed changes to CBP policies, procedures or training.

Since its inception approximately five months ago, the Panel increased its membership to include a practicing pediatrician who is a national expert on the maltreatment of children. Overall, the ten-member Panel is politically bipartisan and comprised of experts in the various areas under review. Almost half are lawyers with one previously a federal judge. The Panel includes two former Commissioners of CBP, two former Administrators of the Drug Enforcement Administration, former officials of DHS and the Department of Justice (DOJ) who are immigration policy legal experts, the Director of Immigration and Cross-Border Policy with the Bipartisan Policy Center, a former U.S. Ambassador to Mexico who also served in leadership positions in Congress and the White House in a prior Administration, the Chief Executive Officer of the National Center for Missing and Exploited Children (NCMEC) and former Director of the U.S. Marshal’s Service, and the Deputy Director of the Arizona Department of Emergency and Military Affairs, Director, Division of Emergency Management.<sup>2</sup>

The Panel has met in person and telephonically multiple times to interview more than 109 subject matter experts who included multiple medical professionals, the American Academy of Pediatrics, dozens of representatives from CBP, DHS, Health and Human Services (HHS) and the DOJ, as well as various stakeholders, more than 17 Non-Government Organizations (NGO), and 3 global protection organizations. Notably, the Panel conducted multi-day site visits to every state along the Southwest Border (SWB) with a focus on the areas suffering from some of the larger influxes of families and children illegally entering the U.S. Specifically, the Panel visited 6 of the 9 USBP SWB sectors to include 10 USBP stations and 4 POEs within the OFO, reviewed numerous reports by multiple Inspectors General and the Government Accounting Office, and gathered and reviewed a prodigious amount of data from the various subject matter experts.<sup>3</sup>

On February 28, 2019, this Panel reported its early findings confirming the crisis at the SWB – on both national security and humanitarian grounds – urging that our country and migrant children are

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<sup>1</sup>See Appendix C. DHS Secretary Nielsen’s signed HSAC Tasking Memo, *Four New Homeland Security Advisory Council (HSAC) Taskings, October 4, 2018*. As the Panel’s report was being written, Secretary Nielsen resigned and on April 10, 2019, then CBP Commissioner Kevin K. McAleenan assumed the position of Acting Secretary of Homeland Security.

<sup>2</sup> See Appendix B. Panel Member Biographies.

<sup>3</sup> See Appendix D - Subject Matter Experts and Other Witnesses, Appendix E - Meetings and Site Visits and Appendix F - References.

in serious danger.<sup>4</sup> Over the past several months, DHS and CBP have introduced a number of important measures to address the crisis independently of the Panel. However, with the situation at the border reaching catastrophic levels, this bipartisan Panel believes our recommendations cannot await our final report in May 2019. This interim report and our emergency recommendations address the most urgent needs regarding the custody and care of family and children populations and those necessary to restore CBP to its primary law enforcement mission to protect our homeland security by controlling our Nation's borders.

Although CBP has already implemented some of the recommended emergency measures, such as increased health screenings for all children apprehended at the border, it is still phasing in medical professionals so not all stations have them or have them 24/7, leaving those stations without to meet these requirements, in part, by diverting medically trained CBP personnel from their enforcement duties. A solution to the broader problem requires us to look beyond CBP to all the resources of DHS, to include not just CBP but also Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO), U.S. Citizenship and Immigration Services (USCIS), and indeed to the whole of the U.S. government, all three branches. It quickly became apparent to the Panel that the primary problem is the continuing surge of FMUs from Central America to our borders and that properly caring for this population and stemming this flow, in order for CBP to return to its critical homeland security mission, requires an urgent whole of government effort if there is to be any hope of mitigating dangers to children who are brought to our border as FMUs. This issue has consumed the Panel's energy and efforts. Its solution requires emergency action.

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<sup>4</sup> See U.S. Department of Homeland Security, *Homeland Security Advisory Council Public Teleconference Call Subcommittee Progress Update February 28, 2019*, transcript of telephonic report to the HSAC. <https://www.dhs.gov/sites/default/files/publications/February%2028%2C%202019%2C%20Executive%20Summar%20Final.pdf>

## KEY FINDINGS

1. We commend the men and women of CBP, including the OFO officers and USBP agents, for their unfaltering devotion to duty and professionalism during this crisis. There are countless examples of their valiant attempts to aid families and children who have entered our country illegally and still attempt to perform their law enforcement mission to protect our country. However, it is not humanly possible to do both. On any given day, CBP is at half strength or less “on the line” in places at the border, endangering themselves and the country. Turned on its head, CBP personnel are instead tending to the daily needs of thousands of illegal migrants who CBP has already processed but is left holding for days and sometimes weeks in confinement space that was built decades ago and designed to confine only a fraction of these illegal migrants for hours, not days or weeks, and certainly not intended to confine tender age children. One of the highest priorities must be to immediately relieve CBP of all tasks unrelated to its law enforcement mission. The security of our country is at grave risk until then.
2. Tender age children are at the heart of the crisis. Most, 73%, of the children in FMUs illegally crossing our border are tender aged, being 12 or younger.
3. The unabated 600% surge of FMUs from Central America to our borders and properly caring for this population have overwhelmed the entire government and brought our border security and immigration management systems to the point of collapse. Although the increase in FMUs began in FY2014, it has recently spiked, after a significant drop in FY2017. In March FY2017, FMU apprehensions accounted for less than 1% (.3%) of all USBP apprehensions. Currently, they constitute nearly 60% (57.6%) of all apprehensions.<sup>5</sup>
4. Apprehensions by USBP, currently at levels not seen in a decade, will approach one million in FY19 unless actions are immediately taken.
5. Migrant children are traumatized during their journey to and into the U.S. The journey from Central America through Mexico to remote regions of the U.S. border is a dangerous one for the children involved, as well as for their parent. There are credible reports that female parents of minor children have been raped, that many migrants are robbed, and that they and their child are held hostage and extorted for money.
6. Criminal migrant smuggling organizations are preying upon these desperate populations, encouraging their migration to the border despite the dangers, especially in remote places designed to overwhelm existing USBP infrastructure, and extorting migrants along the way, thereby reaping millions of dollars for themselves and the drug cartels who also charge money to cross the border.
7. A substantial number of families and children are entering our country in remote areas of the border versus the POEs, enduring dangerous and terrifying crossings in remote desert areas, across rivers, over fences, and through razor wire. These children increasingly require significant personal and medical care that exceeds the ability and capacity of CBP even with their current patchwork of contracted assistance. Despite CBP’s creative and humane attempts to care for these children during their confinement, CBP facilities, both at USBP stations and POEs, are grossly inadequate.

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<sup>5</sup> See Appendix A – Family Unit Apprehension Data

8. Families should not be separated during detention, but current laws do not give CBP discretion to keep children together with a grandparent or other close relative acting in a guardian-type role other than their parent.
9. FMUs illegally crossing our border consist of adults who are bringing a child with them, and most are being released into the U.S. with a NTA due to a shortage of detention capacity for FMUs.
10. Children who are crossing the borders of the U.S. are at great risk for multiple medical problems, which include but are not limited to, dehydration, malnutrition, infections, psychological trauma, physical injuries and all aspects of child maltreatment. Many of these sequelae are not necessarily evident within the context of a non-medical evaluation. An expectation for clinical acumen by CBP agents and officers is highly unrealistic. Even medical personnel need to have a higher level of expertise to anticipate some of the potential infectious disease complications that can be found in this population of children.
11. It is unrealistic to have doctors at every USBP station where a large group of families may or may not show up on a given day. However, each POE and USBP station should be provided ancillary contracted medical support 24/7 during operational hours<sup>6</sup> -- e.g., Pediatric or Family Medicine Nurse Practitioners and/or Physician Assistants, Physicians enrolled in Graduate Medical Education or Department of Defense (DOD) health care providers in training with appropriate supervision from their medical treatment facilities. An examination room should be made available for these providers and equipped appropriately, to include exam tables and equipment designed to prevent the transmission of communicable diseases.
12. Until the RPCs are established, the USBP will continue to be dependent on community emergency rooms and other medical facilities, as well as local emergency transport systems, which, in turn, significantly and negatively impacts the USBP mission and manpower.
13. Some adults accompanied by a child revealed during CBP processing, that they were encouraged to bring a child with them by criminal smuggling organizations that are paid to transport the migrant and child to the U.S. border from Central America.
14. Children are being exploited and placed in danger in many ways –
  - Adults fraudulently claiming parentage to a child to gain entry to the U.S. are increasing.
  - Some children are being re-cycled by criminal smuggling organizations, *i.e.* returned to Central America to accompany a separate, unrelated adult on another treacherous journey through Mexico to the U.S. border.
  - Human traffickers have extracted additional fees as a form of indentured servitude from FMUs who were released with NTAs and made their way to the interior of the U.S.
  - The risk for commercial sexual exploitation of these children and teens is predictably high and will be very difficult to prevent after transport or release into the interior U.S.
15. More recently, with the expanding crisis, CBP directed that FMUs be released with a NTA within a few days after their surrender to the USBP and preliminary processing. None of these migrants released with a NTA have been given a credible fear interview prior to their release, because there are no USCIS credible fear examiners at USBP stations. Further, these FMUs are not detained by ICE ERO due to their lack of capacity to detain FMUs. ICE ERO has effective capacity to detain only 2,500 FMUs, and that capacity is woefully inadequate given the surge in FMU migration over the past year. Those relatively few FMUs that ICE

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<sup>6</sup> Until the appropriate contracts are established, services could be rendered under the National Response Framework, Emergency Support Function #8 Public Health and Medical. Health and Human Services is the lead agency and has multiple alternatives at their disposal within the federal government to support fulfillment of this requirement.

ERO does detain, however, are given credible fear examinations if they express a fear of return to their home countries.

16. Given recent decision rates, only a small percentage of FMUs being released with NTAs are being granted asylum (including the number of persons given NTAs who do not end up actually filing an asylum claim). Of those who actually file asylum claims, whether they have crossed the border or are visa overstays, approximately 80% ultimately are not granted. During the first quarter of FY19, the DOJ Executive Office for Immigration Review (EOIR) reports that less than 15% of the asylum claims of Central Americans who have been given a credible fear interview are actually granted.<sup>7</sup> Despite the interests of the U.S. in enforcing the court ordered removal of unsuccessful asylum seekers, very few non-detained asylum claimants whose claims are denied are actually ever located and deported from the U.S.
17. Based on EOIR data for non-detained asylum applicants, it takes, on average, 2.5 years before an asylum claim is adjudicated by an immigration judge. For cases that are appealed, either to the Board of Immigration Appeals (BIA) or further to the federal district courts, it can be up to five years before a final decision is reached. An appeal to the BIA on average adds another 8 months to the process, extending the process for final adjudication of an asylum claim to over 3.3 years. In cases where a U.S. Court of Appeals then grants a stay of removal, it can take up to another 2 years for the final appeal to be decided. This means that an individual or family seeking asylum can remain in the U.S. for 4-5 years pursuing an unmeritorious case before a removal order can be executed.
18. The dramatic increase in FMU apprehensions over the past year is directly linked to the U.S. government -- executive, legislative and judicial branches -- creating “pull factors” that incentivize migrants to bring a child with them to gain entry to and release into the U.S.
19. In the short term, CBP is doing triage. It has already re-assigned 545 CBP OFO officers to assist USBP. Currently, approximately 6,643 (40%) of the 16,608 USBP agents assigned to the SWB are diverted to processing, holding, medical care, transport, and hospital watches relating to the surge of FMUs. Currently, CBP has only 6,889 CBP officers at the POEs on the SWB. If all CBP officers were assigned to assist the USBP, there would be no CBP officer to staff the POEs and none to do the processing of legitimate trade and travel from Mexico. This crisis, unless controlled soon, could well cause the shutdown of these POEs.
20. The emergency recommendations outlined below are not a panacea, standing alone. However, without rapid action, our border enforcement and immigration management efforts will continue to collapse under the weight of continuously increasing FMUs from Central America and elsewhere and be a magnet for criminal elements seeking entry to the U.S., placing many more children in danger.

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<sup>7</sup> See EOIR *Adjudication Statistics* as of January 30, 2019, at <https://www.justice.gov/eoir/page/file/1111476/download>

## EMERGENCY RECOMMENDATIONS

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### 1. Emergency Legislative Recommendations

- a. Enact emergency legislation to limit the scope of the *Flores* consent decree to unaccompanied minors.<sup>8</sup>
- b. Amend Section 208 of the INA to require border crossers to present asylum claims at a U.S. POE, unless extraordinary circumstances exist that preclude this.<sup>9</sup>
- c. Amend the TVPRA to permit repatriation of a child to a custodial parent in their country of origin, provided this can be safely done.
- d. Amend current law to allow DHS to exercise discretion to keep together a FMU of a child and other than a parent or legal guardian with one degree of separation, *e.g.*, grandparent, uncle, etc., except in circumstances when there is apparent danger to the child of such an arrangement.
- e. Enact an emergency supplemental funding bill to cover costs associated with adopting our recommendations. Working with DHS and other impacted departments of government, the Office of Management and Budget (OMB) should promptly submit an emergency supplemental budget request to fund the foregoing.

### 2. Emergency Regulatory Changes

- a. Amend 8 CFR Section 235.1 to remove the exemption of “Aliens younger than 14.... on date of admission” to enable CBP to take photographs and biometrics of children of any age in order to stem the recycling of children at the border and to rapidly determine the legitimacy of parentage claims.
- b. Because the expansion of *Flores* is contributing to the flow of accompanied children, many who are of tender age, DHS should act promptly to limit it by emergency regulation until Congress acts on Recommendation 1a above.

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<sup>8</sup> Emergency legislation is needed that limits *Flores* to unaccompanied minors, but if such legislation is delayed, we recommend that this be done by emergency regulation that, because of the FMU migration crisis, dispenses with ordinary Notice and Rulemaking. The emergency regulation would recognize that, unlike UACs, in some cases FMUs must be held beyond 20 days in order to (1) determine whether there is an actual parental relationship, (2) establish identity, (3) conduct (an unhurried) credible fear interview, (4) make sure the child's healthcare is examined and any issues, especially communicable diseases are taken care of before release for the sake of the child and to assure public health is not threatened in interior urban areas to which the FMUs intend to alight upon release, (5) keep the FMUs intact if it is ineligible for asylum or otherwise, (6) schedule expeditious chartered repatriation for those who are subject to expedited removal, and/or (7) for those eligible after credible fear interview, and based on a release more time to effect a safe and orderly re-settlement. Whether a *Flores* roll-back is by emergency regulation or as part of emergency legislation, this recommendation is too important and too urgent to reducing risk to accompanied children to be delayed any longer. The lives of children who will be making the treacherous journey are at risk.

<sup>9</sup> Section 208 of the INA currently permits a border crosser to make an asylum claim by placing a foot anywhere on U.S. soil. The federal courts have made clear that a law of Congress is necessary to change this, *i.e.*, INA Section 208 cannot be changed by Presidential proclamation or executive order. Only Congress can change this law, and it should do so without delay as part of emergency legislation needed to protect children from dangerous crossings across the border. We do not exaggerate when we say that the lives of tender aged children are at stake and at risk every day Congress fails to act to amend Section 208.

### 3. Temporary Regional Processing Centers (RPCs) for All FMUs

- a. Establish 3-4 temporary, scalable processing centers along the SWB.
- b. Transport all FMU migrants to the nearest RPC as soon as possible but no later than 24 hours after apprehension by USBP between POEs and CBP officers at POEs.<sup>10</sup>
- c. Require all processing at the RPCs – e.g., criminal, identity and parentage/DNA checks, medical screenings and mitigation of health risks by health care professionals and, until a Rapid Adjudication of FMUs asylum claims can be put in place, credible fear examinations.
- d. Establish an accelerated “rocket-docket” process for asylum claims of FMUs once the *Flores* legislative fix is in place and its 20-day limitation on accompanied minors is removed. This expedited process will provide for Rapid Adjudication of Family Unit Asylum Claims at the RPCs with co-located USCIS asylum officers, immigration judges with no other docket, interpreters, and ICE Attorneys. DOJ on an emergency basis must add several hundred immigration judges dedicated solely to the FMUs asylum claims docket. This rapid asylum processing, when in place, will substitute for credible fear examinations, but still lead to the rapid removal of FMUs who do not qualify for asylum. Consideration also should be given to the temporary creation of a unit of government (EOIR) funded immigration counsel (similar to public defenders) as utilized in the 2014-15 surge.
- e. Until the RPCs can be established, steps should be taken immediately to relieve the POEs and USBP of all tasks unrelated to their law enforcement mission. That is, all transportation, medical, feeding and caring for migrants should be the responsibility of non-CBP professionals who provide such services, whether by contract or applicable emergency government relief services. These are national security costs that should be included in the emergency supplemental budget request.

This RPC recommendation warrants brief elaboration. It contemplates that within 45 days, DHS, with full support of other departments of government, including the DOD,<sup>11</sup> will establish temporary, scalable regional detention/processing space (RPCs) at 3 or 4 locations proximate to the SWB. The RPCs may consist of tents or other non-permanent structures that can rapidly be put in place. The requirement is that that these RPCs have sufficient bed, quarantine infirmary space to detain all FMUs apprehended at or near the SWB for a minimum of 20 days. All locations are to be sited within approximately 250-300 miles at their furthest from any spot on the SWB. Possible locations include Rio Grande Valley, El Paso, Yuma and immediately available current and excess military bases. Establishment of the first RPC should begin immediately, within 30 days.

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<sup>10</sup> As noted in our Findings, the transportation and detention system for FMUs has collapsed due to the huge numbers of FMUs illegally crossing the U.S. border. Assuring rapid 24-hour or less transport, not just from USBP stations but also POEs, will have the collateral benefit of substantially increasing the through put of FMU through POEs and shorten wait times. Additional costs for transport to meet the 24-hour requirement shall be included in the Emergency Supplemental.

<sup>11</sup> DOD or Federal Emergency Management Agency (FEMA) should be immediately tasked to erect the RPCs, possibly on existing or excess military property or on existing government owned properties, working in coordination the General Services Administration (GSA). Whichever agency constructs the RPCs, and however the initial funds are re-allocated or re-programmed to get this started immediately, should be reimbursed via an Emergency Supplemental appropriation.



The RPCs should have sufficient medical staff with physicians specializing in Pediatric or Family medicine, nurse practitioners and physician assistants, licensed social workers, mental health professionals, and dietitians. Health care evaluations will require some aspect of laboratory and field level X-ray support. These health officials should consider issuing a medical “passport” for children exiting the custody of RPCs that identifies significant medical problems as well as any immunizations provided before their release, which would be beneficial to destination communities and their public health systems and avoid the very high risk of these children becoming lost to monitoring.

Our recommendation contemplates that DHS will operate and manage the RPCs as a whole of DHS effort. That is to say, staffing to manage the processing will be provided by CBP, both USBP and OFO, ICE ERO and USCIS. Staffing costs and TDY are to be included in the Emergency Supplemental. Required processing,<sup>12</sup> including medical screening by healthcare professionals will take place at RPCs.

If this and our other emergency legislative recommendations are adopted, we would expect a sharp decline in the number of FMUs apprehended by the USBP in remote and treacherous areas of our border in less than 12 months. In other words, DHS will be able to scale back some of the RPCs and/or some of their capacity within 12 months. That is why we do not envision RPCs as permanent structures. However, if we only establish RPCs, while they will help meet our humanitarian responsibilities, they alone, although costly, are not likely to substantially reduce the surge in FMU migration.

#### **4. Rapid Adjudication of Asylum Claims of Family Units at RPCs**

- a. Co-locate USCIS asylum officers at RPCs.
- b. Until this recommendation can be fully implemented together with a *Flores* fix, conduct credible fear examinations of FMUs expressing fear of return to their home country and use expedited removal to repatriate those who are not found to have a credible fear of persecution to qualify for asylum.
- c. Increase the number of Immigration Judges by another 300 with the single goal of resolving all FMU asylum claims at the immigration court stage within twenty days or less.<sup>13</sup> Assist

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<sup>12</sup> Required Processing at RPCs. As a matter of DHS policy, no NTAs shall be issued without up to 20-day processing that includes medical examinations and credible fear determinations being made at an RPC. All FMUs will get medical screenings by health care professionals. They will also receive security screenings, including establishing identity and family relationship, before being released into the interior of the U.S. Any public health issues that could impact populated interior areas of the U.S. relating to contagious diseases and the like will be assessed at a RPC by public health professionals and be mitigated before release. RPCs will have separate space for quarantining illegal migrants with infectious diseases. Criminal history of the adult, including in his/her country of origin, will be checked and evaluated for potential criminality before release into the interior of the U.S. Likewise any and all national security concerns are to be addressed before release. An assessment must be made regarding whether there is a true parental relationship, including where appropriate through interviews and DNA testing. Part of the processing at the RPC should include capturing photographs and the most cost effective biometric identifiers (e.g., Rapid DNA, iris, finger or vein scans) of all children and family members to determine if children are being repeatedly trafficked across the border and as a check on family fraud.

<sup>13</sup> To assist in ramping up the number of additional immigration judges, consideration should be given to establishing a reserve corps of retired immigration judges willing to serve in a temporary duty capacity.

this goal by providing counsel to individuals without counsel so that they cannot obtain continuances due to lack of counsel.

- d. Co-locate immigration judges at the RPCs or provide immigration court proceedings at the RPCs via remote video.
- e. New immigration judges should be assigned to prioritize FMU asylum claims. They should have no other cases on their docket until FMU cases are decided.
- f. Consider temporary or permanent statutory changes to streamline and expedite the adjudication of FMU asylum claims.
- g. Narrow Grounds for Asylum Claims -- the Attorney General should use his authority to limit grounds for asylum claims to be coterminous with, but not exceed U.S. treaty obligations.

The overall objective of these recommendations is to restore a system capable of prioritization and rapid resolution of asylum claims made by FMUs. One of the greatest deterrents to FMU migration would be the relatively prompt repatriation of FMUs to their country of origin when they do not qualify for asylum. Since the majority would not likely qualify for asylum, it would be best if this decision could be made earlier, before they are given NTAs and are released into the interior of the U.S.

## **5. Near-term International Actions by the U.S.**

- a. North American Family Protection Initiative, Safe Third Agreement and Bilateral Cooperation with Mexico

DHS, with full assistance and support of the State Department and other elements of the federal government, should propose and negotiate a North American Family Protection Initiative (NAFPI) that includes the essential elements of a Safe Third Agreement with Mexico<sup>14</sup> and also calls for bilateral cooperative and coordinated efforts with Mexico to address “push factors” in the Northern Triangle countries of Central America.

A bilateral agreement with Mexico is the single most important action capable of managing the movement of FMUs from Central America into Mexico and ultimately across its border into the U.S. Correctly understood, such an agreement would be in the best interests of both the U.S. and Mexico<sup>15</sup> and, as it will result in a more orderly, safer and managed process for

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<sup>14</sup> We have had a safe third agreement with Canada for years. Such an agreement postulates that if a person is truly escaping death or persecution in, say, Guatemala, he must make his asylum claim in the first safe country in which he alights, that is, Mexico. The likely effect of a Safe Third agreement is to dramatically reduce the number of migrants with a child in tow from Central America. To the extent that Mexico requests it, the U.S. should provide assistance to Mexico for housing and expanding its asylum processing capacity in connection with its agreement to Safe Third. The importance of a Safe Third Agreement, and its recognition of the capacity of the government of Mexico to implement it, speaks volumes regarding how far Mexico has come in developing its democracy and institutions and the strength of the Mexico-U.S. bilateral relationship. Without a safe third agreement, it will be necessary for CBP to re-direct a significant number of CBP officers from our nation’s POEs, including those who process commercial shipments and people into the U.S. from Mexico, to USBP stations and Regional Processing Centers or “RPCs”.

<sup>15</sup> The benefits to Mexico from such an agreement may not be apparent, but they are substantial. The reality is that many Northern Triangle FMU migrants are making the journey to reunite with family or escape poverty and are unlikely to qualify for asylum in the U.S. If a Safe Third arrangement is agreed to, it is contemplated that Mexico will enhance its process for asylum so that it is substantially equivalent to ours and that Mexico will provide appropriate protection for asylees in its territory. Although Mexico has also seen an increase in asylum claims from the Northern

requesting asylum in either country, it would also be in the best interests of children and vulnerable migrants currently subjecting themselves to criminal smugglers and dangerous journeys.

**b. Establish a Secure RPC Facility in Guatemala**

The USG should negotiate an agreement with Guatemala that provides appropriate USG support to the government of Guatemala, whereby the United States is permitted to promptly erect a safe and secure RPC-type shelter in Guatemala, proximate to the Guatemala-Mexico border, that permits processing by the USG of asylum claimants from the Northern Triangle nations in Guatemala.

This safe and secure processing center, like the RPCs in the U.S., should be staffed by USCIS asylum officers and immigration judges on site or by video and provide the asylum seekers with appropriate security, health and social services. This step would obviate the need for parents to risk his or her child on a perilous journey through Mexico to dangerous U.S. border crossing areas.

**6. Recommendations for Medical and Child Exploitation Safeguards**

- a. OFO POEs and USBP stations should be supplemented by contracted medical and transport professionals, with Emergency Medical Technician (EMT) trained agents and officers utilized only as a last resort.

In many cases, there will be value in having pediatric and other medical professionals on call for telemedicine consultations and even examinations. This requires privacy, examination basics, bandwidth, and a set of contractual relationships with doctors who understand the exigencies of USBP detention and transportation. These relationships could be established through university Graduate Medical Education programs, though appropriate Internet support will be necessary. That said, none of the Panel believes that USBP can ever be expected to safely handle serious medical emergencies on a no-notice basis. Contracted transport to and treatment by medical professionals is the only realistic option for serious injury or disease.

- b. Video-monitoring surveillance should be installed at all POEs, USBP stations and RPCs with multiple warnings of this surveillance to all children in CBP custody to assist in the prevention of situational child sexual abuse. In the event of a possible completed sexual assault, remote forensic examination technology already exists to accomplish an acceptable examination and such medical evaluations are already a standard of care in several states.

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Triangle, such an agreement might not mean that Mexico would continue to see the vast numbers that are currently leaving the Northern Triangle countries and illegally crossing Mexico's southern border. If the majority of the Central American FMUs are seeking entry into the U.S., not Mexico, then the understanding that they would be expected to make their claims in Mexico rather than in the U.S. may itself change their decision to migrate.

c. Implement CBP Training, as follows:

- CBP personnel should be professionally trained to focus specifically on physical evidence of illness for the brief period between apprehension and transfer of the FMUs to the RPCs or other agencies. Some signs of such illnesses are only able to be noted from history provided by parents and caregivers. The specific areas which should be noted if at all possible, would be severe respiratory symptoms (e.g. coughing, shortness of breath, wheezing, cyanosis etc.), fever, severe gastrointestinal symptoms (e.g. persistent vomiting and/or diarrhea with particular attention to bloody diarrhea), and skin rashes or facial swelling that might indicate highly infectious diseases such as measles, mumps or chickenpox. The necessity for quarantine must be considered when these diseases become apparent.
- Training regarding the vulnerabilities to and indicators of Child Sexual Exploitation and Effective Responses to Missing Migrant Children by leveraging NCMEC Resources.<sup>16</sup>
- Procedures and training for CBP personnel to report incidents of suspected child sexual abuse/exploitation directly to the NCMEC CyberTipline, which is the national clearinghouse and portal for reporting suspected incidents of child sexual abuse.

## 7. DHS Commander/Coordinator

The Acting DHS Secretary should consider designating a high level, knowledgeable, whole of DHS operational Commander with full authority to act on his behalf, and with the full support of the White House, to engage and coordinate an interagency process to assure a whole of USG approach to achieve the foregoing goals – e.g., the rapid construction of RPCs, staffing the RPCs with personnel from the various government agencies required for its success, re-directing and utilizing personnel of DHS component agencies to staff the RPCs, and assuring that the 24 hour transportation requirement is met, etc. Other executive branch departments to be engaged include DOD, DOJ, and HHS, in order to optimally coordinate actions needed to achieve the emergency goal as quickly as possible.

The DHS Commander/Coordinator would be needed on a temporary (6-12 month) basis to marshal the resources of DHS, and secure support from other departments and agencies, to focus them squarely on fixing the problem. Part of the breakdown that led to FMUs being held for longer periods in USBP custody than is desirable and to the release of FMUs with NTAs without even a credible fear interview or other vetting, is the division of roles and responsibilities within DHS among CBP, ICE and USCIS. In addition to leading the interagency process, the DHS Commander/Coordinator also would be responsible for leading the unity of effort among these DHS components and others, such as FEMA. Given the fact that one or more federal departments or agencies are needed and/or already providing support, calling upon FEMA should be considered. The National Response Framework (NRF) and its

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<sup>16</sup> NCMEC's 35-year history of providing a comprehensive approach to help find missing children, reduce child sexual exploitation, and prevent child victimization can be leveraged to inform and support training efforts. Best practices have been identified through NCMEC's provision of analysis, technical assistance, victim support services, case management services, trends, and indicators. Migrant children who are placed with sponsors, extended family, or social services may run away from those placements and possess many risk factors and vulnerabilities for sexual exploitation. CBP, social workers, sponsors, and foster parents could help ensure prevention practices are taking place, indicators are recognized and best practices for response are known in an effort to better protect migrant children.

fundamental principles also may be applicable specifically during a time of crisis, as here.<sup>17</sup> The goal of this coordinated inter and intra agency DHS led team would be to manage, care for, and within 6-12 months, dramatically reduce the number of FMUs illegally entering the United States.

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<sup>17</sup> This whole of DHS and federal enterprise effort fully aligns with Presidential Policy Directive 8 (PPD-8): National Preparedness, and Homeland Security Policy Directive-5 (HSPD-5): Management of Domestic Incidents. Specifically, HSPD-5 states “The Secretary shall coordinate the Federal Government’s resources utilized in response to or recovery from terrorist attacks, major disasters, or other emergencies if and when any one of the following conditions applies: (3) more than one Federal department or agency has become substantially involved in responding to the incident; or (4) the Secretary has been directed to assume responsibility for managing the domestic incident by the President. DHS.gov. (2019, April 04). Homeland Security Presidential Directive 5. Retrieved April 07, 2019, from <https://www.dhs.gov/publication/homeland-security-presidential-directive-5> The following emergency support function (ESF) areas, within the NRF, are minimum recommendations for immediate implementation to help address this humanitarian crisis: ESF #5: Information and Planning (DHS/FEMA) which includes coordination amongst all federal departments/agencies supporting the RPC; ESF #6 Mass - Care to support feeding, sheltering and other resources for proper health and hygiene for migrants, as well as succinct coordination with external NGO and Faith-Based Organizations supplementing support following migrant release from ICE-ORO (DHS/FEMA); ESF #7 Logistics to address needs such as transportation, acquisition of RPC locations and security services that do not require a badged agent (i.e. monitoring during hospital treatment or stays for migrant population), etc (DHS/FEMA); ESF #8 Public Health and Medical to provide appropriate medical screening/care, immunizations, social work, and psychological screening (HHS); and ESF #15 External Affairs (DHS) and unified public messaging.

## CONCLUSION

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This is the Panel's interim report. Given the steadily increasing severity of this humanitarian crisis, the Panel believes it a matter of great urgency to provide the Secretary with these emergency recommendations for immediate action without further delay. In due course, we will issue a final report on or about May 21, 2019, which will provide our longer term recommendations.

## APPENDIX A - FAMILY UNIT APPREHENSION DATA

Figure 1

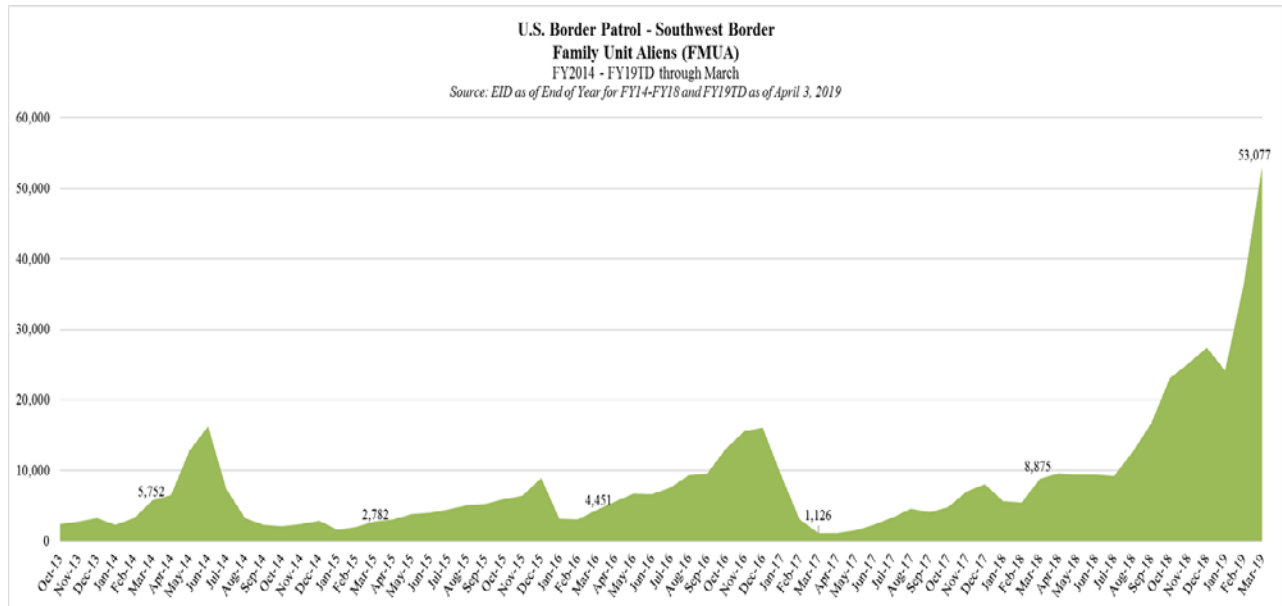
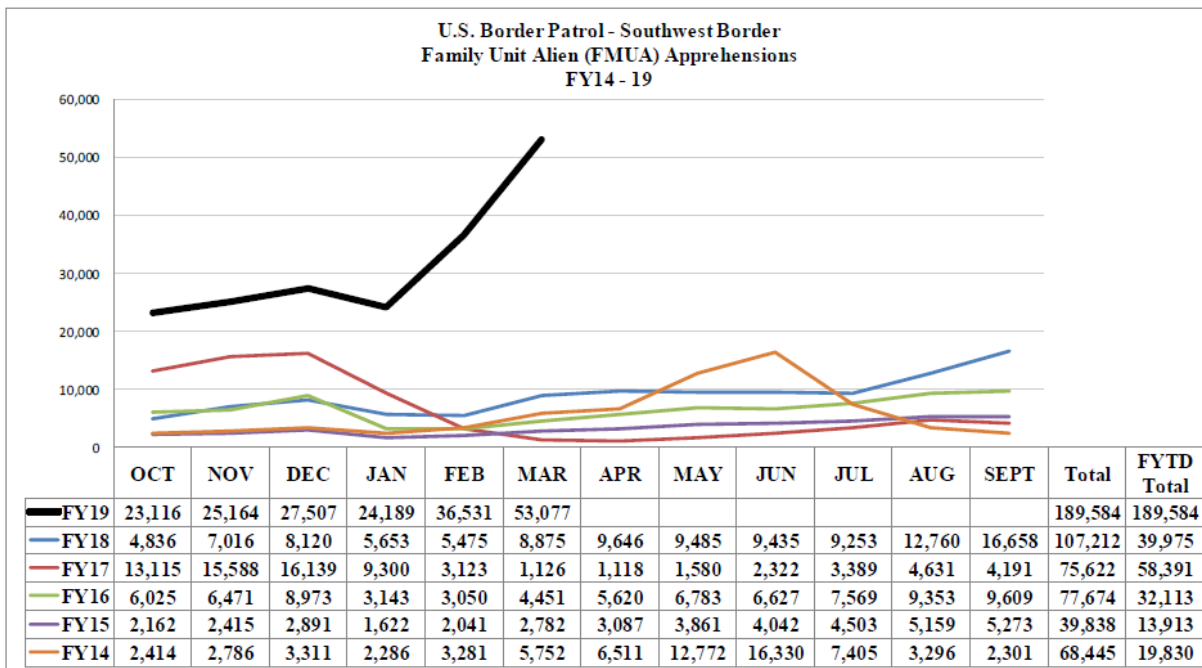


Figure 2



## **APPENDIX B – PANEL MEMBER BIOGRAPHIES**

### **Karen Tandy (Chair)**

#### **Administrator (Ret.), Drug Enforcement Administration**

Karen Tandy served as the Administrator of the U.S. Drug Enforcement Administration (DEA) from July 2003 to November 2007. During her tenure, the DEA saw unprecedented improvements in its performance and accountability standards. Ms. Tandy is also a former Associate Deputy Attorney General for the Department of Justice (DOJ), where she was responsible for developing national drug enforcement policy and strategies. She held a variety of positions in the Criminal Division at DOJ and was an Assistant U.S. Attorney in the Eastern District of Virginia and the Western District of Washington. In 2007, she became the Senior Vice President of International Government Affairs for Motorola Solutions Inc., where she worked as Motorola's top public policy spokesperson. In that role, she oversaw Motorola's country management, governance, and compliance issues in over 70 countries, and worked on telecommunications policy and trade regulation issues. Ms. Tandy has a B.S. in Education and a J.D. from Texas Tech University. Ms. Tandy is licensed to practice law in Texas and Virginia.

### **Jayson P. Ahern (Co-Chair)**

#### **Principal and Head of Security Services, The Chertoff Group**

Jay Ahern is the Principal and Head of Security Services at The Chertoff Group. In this role, he advises clients on a broad range of issues including homeland and border security management, global commerce and supply chain security, critical infrastructure protection, risk management, and strategic planning/ implementation.

Mr. Ahern served as a law enforcement professional for 33 years and as the former Acting Commissioner of U.S. Customs and Border Protection (CBP) at the Department of Homeland Security. During his time as Acting Commissioner, Mr. Ahern was responsible for securing, managing, and controlling our nation's borders. With service in both domestic and foreign locations, he directed the agency's 58,000 employee workforce to keep terrorists and terrorist weapons out of the country, while also carrying out CBP's other border-related responsibilities. At The Chertoff Group, Mr. Ahern understands the dangers that face America and American businesses operating around the world. He counsels global clients on how to effectively manage risk while incorporating a proper mix of people, processes, and technology to achieve their security goals. Through an intelligence-driven approach, he advises clients on how to secure their most critical assets, train and exercise employees to respond to emergency incidents, and create sound frameworks to optimize security operations.

### **Stewart A. Baker**

#### **Partner, Steptoe & Johnson**

Stewart A. Baker is a partner in the Washington office of Steptoe & Johnson LLP. He is the former Assistant Secretary of Policy at DHS. At DHS, Mr. Baker created and staffed the 250-personnel DHS Policy Directorate. He was responsible for policy analysis across the Department, including the Department's International Affairs, strategic planning and relationships with law enforcement, and public advisory committees. This work required a broad understanding of all aspects of the



Department's activities, including; maritime regulation, customs enforcement, immigration enforcement, identity management, implementation of the SAFETY Act, money laundering enforcement, government contracts, and regulation of travel and air transportation.

**Robert C. Bonner**  
**Principal, Bonner ADR Services**

Robert C. Bonner is a retired partner of Gibson, Dunn & Crutcher international law firm and formerly the senior principal of the Sentinel HS Group, LLC, a Washington, D.C.-based homeland security consulting firm that provides strategic advice regarding homeland and border security issues. He is currently the principal of Bonner ADR Services. Mr. Bonner has held several positions in the federal government. In September 2001 Mr. Bonner was appointed Commissioner of the U.S. Customs Service, and served until 2006 as the first Commissioner of U.S. Customs and Border Protection (CBP). Mr. Bonner is also a former Administrator of the Drug Enforcement Administration (DEA), U.S. District Judge and United States Attorney for the Central District of California. He was the chair of the California Commission on Judicial Performance and currently serves on the board of trustees of the California Institute of Technology. Mr. Bonner received a B.A. from the University of Maryland, College Park in 1963 and a J.D. from Georgetown University Law Center 1966.

**Theresa Cardinal Brown**  
**Bipartisan Policy Center, Director of Immigration and Cross-Border Policy**

Theresa Cardinal Brown is BPC's director of immigration and cross-border policy. She came to BPC from her own consulting firm, Cardinal North Strategies, LLC.

Brown was director of immigration and border policy at the U.S. Chamber of Commerce; associate director of business immigration advocacy at the American Immigration Lawyers Association; and worked in the immigration practices of large Washington, D.C.-based law firms. She also served as a director and of counsel at The Sentinel HS Group, LLC.

She was a policy advisor in the office of the commissioner of U.S. Customs and Border Protection, and was on Homeland Security Secretary Michael Chertoff's Second Stage Review of USCIS. In 2005 and 2006, she became a member and later director of the Immigration Legislation Task Force in the Department of Homeland Security (DHS) Office of Policy. She then served as the first DHS director of Canadian affairs, and subsequently as the first DHS attaché at the U.S. Embassy in Ottawa.

Brown does extensive media outreach in her role at BPC, including appearances on Fox News, NPR Morning Edition, PBS NewsHour, CNN International, and BBC World.

Brown is a Phi Beta Kappa graduate of the University of Delaware, with a degree in international relations and economics.

**John Clark**  
**CEO, National Center for Missing and Exploited Children**

John F. Clark, former director of the United States Marshals Service and longtime child advocate, is the president and CEO of the National Center for Missing & Exploited Children.

After an extensive nationwide search, NCMEC's Board of Directors unanimously chose Clark to lead the nonprofit organization, which was designated by Congress in 1984 to work in partnership

with the U.S. Department of Justice on issues related to missing and exploited children. He took the helm of the Alexandria, Virginia-based organization on Dec, 7, 2015.

Clark, whose career with the USMS spanned 28 years, was appointed in 2006 as its ninth director by then-President George W. Bush and confirmed by the Senate. In 2011, Clark joined Lockheed Martin Corp. as its director of security, where he managed a \$24 million budget and led a workforce of 250 professionals for the nation's largest defense contractor.

As director of the U.S. Marshals Service, Clark oversaw the daily operation of 94 district offices, 218 sub-offices, three foreign field offices and seven regional fugitive task force offices. He managed a \$2.5 billion budget and led a diversified workforce of 5,500 employees.

Clark implemented and administered Title I of the Adam Walsh Child Safety and Protection Act, which directed the USMS to locate and apprehend fugitive sex offenders. He also oversaw the implementation and operation of the National Sex Offender Targeting Center. He forged strong relationships with law enforcement leaders at the federal, state and local levels and served on many boards, including NCMEC's.

Among the many awards Clark has received is the "Lifetime Achievement Award" from the Federal Bar Association in recognition of superior service in protecting members of the judicial branch. The Federal Law Enforcement Officers Association honored him as "Federal Law Enforcement Director of the Year" for his superior leadership of the USMS.

Before joining the USMS, Clark worked for the U.S. Capitol Police and the U.S. Border Patrol. He earned a bachelor's of science degree from Syracuse University

### **Sharon W. Cooper, MD FAAP**

#### **Developmental and Forensic Pediatrician, Womack Army Medical Center, Fort Bragg, North Carolina**

Sharon Cooper is a developmental and forensic pediatrician who evaluates and treats children who have been victims of all forms of abuse, though her primary area of expertise is that of sexual exploitation. Dr. Cooper holds faculty positions at the University of North Carolina Chapel Hill, Department of Pediatrics and the Uniformed Services University of Health Sciences in Bethesda, Maryland.

She is a consultant and Board member of the National Center for Missing and Exploited Children. She is also a member of the Expert Working Group on Children who Experience Violence in Cyberspace, of the Baltic Seas. She has lectured nationally and internationally, and has provided Congressional testimony in the United States, Russia, Manitoba Canada, and Italy on child sexual exploitation. She has spoken at the European Commission on a safer Internet and is the lead author of one of the most comprehensive text on child sexual exploitation. Dr. Cooper provides training to numerous national and international investigative agencies in the area of Internet and Communication Technology crimes against children.

Dr. Cooper recently served as a Task Force member on the Defending Childhood-Children Exposed to Violence report, having been appointed by Attorney General Eric Holder. She actively evaluates victims of child abuse images and the commercial sexual exploitation and has been qualified as in expert witness in more than 300 court proceedings. She regularly provides training for multidisciplinary teams who work on child maltreatment cases and provides particular attention to all forms of sexual exploitation. She continues to provide medical care for children with disabilities and serves in several organizations which work towards the prevention of child maltreatment.

**Leon Fresco**  
**Partner, Holland and Knight**

Leon Fresco is an immigration attorney in Holland & Knight's Washington, D.C., office where he focuses his practice on providing global immigration representation to businesses and individuals. He also represents clients in administrative law and government relations matters and has extensive appellate, commercial litigation and legislation experience. Mr. Fresco was the primary drafter of S.744, the U.S. Senate's comprehensive immigration reform bill of 2013. He uses his broad range of experience to develop creative solutions to achieve his clients' objectives, which often may involve multistage representation before administrative agencies, federal courts and Congress. Prior to joining Holland & Knight, Mr. Fresco was the Deputy Assistant Attorney General for the Office of Immigration Litigation at the U.S. Department of Justice (DOJ) Civil Division. In this position, Mr. Fresco provided litigation risk assessments to cabinet members in Executive Branch agencies. He also oversaw all civil immigration litigation on behalf of the federal government, including representation of the DOJ, the U.S. Department of Homeland Security (DHS), U.S. Department of Health and Human Services (HHS), U.S. Department of Labor (DOL) and the U.S. Department of State (DOS). This involved supervision of more than 350 attorneys working on nearly 10,000 cases per year. He also advised and assisted client agencies in drafting immigration regulations. In this capacity, and prior to entering government service, Mr. Fresco argued extensively in six of the federal appellate circuit courts, including several en banc arguments. Prior to joining the DOJ, Mr. Fresco was the staff director for the Senate Judiciary Subcommittee on Immigration, handling matters involving immigration, refugees and border security, including managing the subcommittee's oversight functions involving the DOJ, DHS, HHS, DOL and DOS. He was the principal advisor to Sen. Chuck Schumer (D-N.Y.), former chairman of the subcommittee, on all aspects of immigration law and policy. During his time on the subcommittee, Mr. Fresco drafted several pieces of legislation, including the 1) Border Security, Economic Opportunity and Immigration Modernization Act, 2) the James Zadroga 9/11 Health and Compensation Reauthorization Act, 3) the Emergency Border Security Supplemental Appropriations Act and 4) the Israel E-2 Visa Bill. Mr. Fresco was an associate and a Chesterfield Smith Fellow in Holland & Knight's Miami office prior to his work in Washington, D.C. He also served as a law clerk to the Honorable Daniel T.K. Hurley of the U.S. District Court for the Southern District of Florida. In October 2018, Mr. Fresco was appointed to the Customs and Border Protection Families and Children Care Panel Subcommittee of the U.S. Department of Homeland Security Advisory Council, where he is serving as a subject matter expert.

**Jim Jones**  
**Chairman, Monarch Global Strategies**

Jim Jones is the Chairman and CEO of Monarch Global Strategies. Jones provides business development advice and consulting for clients primarily in Mexico and Latin America. He previously served as U.S. Ambassador to Mexico from 1993 to 1997. He also served as President at Warnaco International, and Chairman and CEO of the American Stock Exchange in New York from 1989 to 1993. As a member of the U.S. House of Representatives from Oklahoma from 1973 to 1987, Ambassador Jones was Chairman of the House Budget Committee and ranking member of the House Ways and Means Committee. Ambassador Jones was only 28 years old when President

Lyndon Johnson selected him as Appointments Secretary, the White House position presently titled Chief of Staff.

**Wendy Smith-Reeve**

**Deputy Director, Arizona Department of Emergency and Military Affairs, Director, Division of Emergency Management**

Wendy Smith-Reeve began her tenure as Director of the Arizona Division of Emergency Management in May 2013, assuming the duties of Deputy Director of the Arizona Department of Emergency and Military Affairs (DEMA) in November 2013.

As Director of Emergency Management, Ms. Smith-Reeve manages the state's emergency preparedness, response, recovery, and mitigation efforts. She joined DEMA's Division of Emergency Management in September 1996 as a finance specialist for the Public Assistance Program within the Recovery Section. She was progressively promoted through the section and became Assistant Director for the Recovery Section in 2009. During her tenure at DEMA, Ms. Smith-Reeve has supported and managed state response and recovery efforts for 100 state disaster declarations and 12 presidential disaster declarations.

In April 2015, the Emergency Management Accreditation Program reaccredited Arizona in affirmation that the state's emergency management program meets industry-recognized national standards.

Ms. Smith-Reeve is a current member and former president of the Arizona Emergency Services Association. She is also a member of the National Emergency Management Association (NEMA) and formerly served as NEMA President. She also supports and serves on multiple committees, councils, and coordinating groups.

## APPENDIX C – TASK STATEMENT

*Secretary*

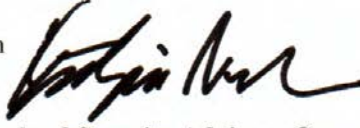
U.S. Department of Homeland Security  
Washington, DC 20528



**Homeland  
Security**

October 4, 2018

MEMORANDUM FOR: Judge William Webster  
Chair  
Homeland Security Advisory Council

FROM: Kirstjen Nielsen   
Secretary

SUBJECT: **Four New Homeland Security Advisory Council (HSAC)  
Taskings**

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Pursuant to the September 18, 2018 meeting of the Homeland Security Advisory Council, I am requesting you to establish four new HSAC entities to undertake reviews of critical homeland security issues. These entities should include: (1) State, Local, Tribal, and Territorial (SLTT) Cyber Security Subcommittee; (2) Countering Foreign Influence (CFI) Subcommittee; (3) Emerging Technologies (ET) Subcommittee; and (4) CBP Families and Children Care (FCC) Panel. An explanation and proposed scope for each entity is listed below in items A through D.

Recommendations are due to the full Council no later than 180 days from the date of each entity's formation. I would like an update and provisional findings from each subcommittee or panel at our next public meeting, which we will hold in late January 2019.

Thank you for your work on these important matters, your service on the HSAC, and your dedication to securing our homeland.

#### **D. CBP Families and Children Custody Panel:**

The CBP Families and Children Custody Panel is to provide findings and recommendations on the best practices from Federal, State, and local organizations regarding care for families and children in CBP custody. The Panel's mandate will include, but is not necessarily limited to, the following:

1. Conduct visits to observe CBP operations and review non-privileged information to understand CBP's unique operating environment and infrastructure, as well as the legal and funding requirements as they relate to individuals held in CBP custody. Such visits shall be conducted in a way that protects the privacy interests of those in CBP custody and privileged information.
2. Study relevant aspects of care for individuals in short-term custody, particularly children, including through interviews with academic experts and non-governmental organizations, literature reviews and studies, site visits, and assessments of best practices that might be applied to such environments.
3. Identify best practices from Federal, State, and local law enforcement regarding interactions with the family and children populations, including during arrests, processing, and short-term detention. This should include identifying how these best practices are implemented.
4. Provide recommendations regarding any potential additions or changes to CBP policies, procedures, or training related to custody of the family and children populations, including any metrics that would permit CBP to measure successful implementation of the additions or changes.

## APPENDIX D - SUBJECT MATTER EXPERTS AND OTHER WITNESSES

### Subject Matter Experts and Other Witnesses

1. **Santa Acuna**, Catholic Diocese, McAllen, TX
2. **Sidney Aki**, Port Director, San Ysidro Port of Entry, OFO, CBP
3. **Chancey Arnold**, (A) Assistant Chief, San Diego Sector, USBP, CBP
4. **Nathalie Asher**, Executive Associate Director, ERO, ICE
5. **Kay Bellor**, Vice President for Programs, Lutheran Immigration and Refugee Service
6. **Carl S. Campbell**, Deputy Executive Director, Operations, OFO, CBP
7. **Dr. Duane Caneva**, Chief Medical Officer, DHS
8. **Michael Cariker**, Special Operations Supervisor, San Diego Sector, USBP, CBP
9. **Victor Cavazos**, Team Brownsville, McAllen, TX
10. **Frank Carrillo**, Patrol Agent In Charge, Chula Vista Station, USBP, CBP
11. **Marco Cervantes**, Patrol Agent In Charge, Santa Teresa Station, USBP, CBP
12. **Samuel Cleaves**, Assistant Port Director, El Paso Port of Entry, OFO, CBP
13. **Eric Crouston**, Branch Chief, San Ysidro Port of Entry, OFO, CBP
14. **Desi DeLeon**, Patrol Agent In Charge, Yuma Station, USBP, CBP
15. **Jeff Demont**, Chief of Staff, San Ysidro Port of Entry
16. **Dr. Alexander Eastman**, Senior Medical Officer, DHS
17. **Alysa Erichs**, Deputy Executive Assistant Director, HSI
18. **Ashley Feasley**, Director of Policy, U.S. Conference of Catholic Bishops
19. **Rhonda Fleischer**, Program Specialist, Migration Program Division, UN International Children's Emergency Fund (UNICEF)
20. **Gerardo Galvan**, (A) Patrol Agent In Charge, Lordsburg Station, USBP, CBP
21. **Ruben Garcia**, Director, Annunciation House, El Paso, TX
22. **Ricardo Garza**, Texas Civil Rights Project, McAllen, TX
23. **George Gomez**, Strategic Communications Branch, El Paso Sector, USBP, CBP
24. **David Gonzalez**, Port Director, Hidalgo Port of Entry, OFO, CBP
25. **Luis Gonzalez**, Esq. Immigration Staff Attorney, HIAS Border Fellow Jewish Family Service of San Diego
26. **Beverly Good**, Port Director, El Paso Port of Entry, OFO, CBP
27. **Salvador Guerrero**, Deputy Patrol Agent In Charge, Santa Teresa Station, USBP, CBP
28. **Joyce Hamilton**, Angry Tias and Abuelas, McAllen, TX
29. **Tamar Magarik Haro**, Senior Director, Federal and State Advocacy, American Academy of Pediatrics
30. **Matthew Harris**, Patrol Agent In Charge, Clint Station, USBP, CBP
31. **Brian Hastings**, Chief Patrol Agent, Law Enforcement Operations Directorate, USBP, CBP
32. **David Higginson**, Director Field Operations, Laredo, OFO, CBP
33. **Jennifer Higgins**, Associate Director, USCIS

34. **Todd A. Hoffman**, Executive Director, Admissibility and Passenger Processing, OFO, CBP
35. **Christina Patino Houle**, Equal Voice Network, McAllen, TX
36. **Randy J. Howe**, Executive Director, Operations, OFO, CBP
37. **Aaron Hull**, Chief, El Paso Sector, USBP, CBP
38. **Lindsay Jenkins**, Protection Officer, UNHCR Regional Office for the USA and the Caribbean, UN High Commissioner for Human Rights
39. **Tae Johnson**, Assistant Director, ERO, ICE
40. **Larry Jones**, Deputy Patrol Agent In Charge, Clint Station, USBP, CBP
41. **Peter Jaquez**, Patrol Agent In Charge, El Paso Station, USBP, CBP
42. **Shawn Jordan**, Special Operations Supervisor, Yuma Headquarters, USBP, CBP
43. **Brian Kastoll**, CPC Commander, El Centro Station, USBP, CBP
44. **Carl Landrum**, Deputy Chief Patrol Agent, Yuma Sector Headquarters, USBP, CBP
45. **Michael Lata**, Patrol Agent In Charge, Laredo Station, USBP, CBP
46. **Susan Law**, Angry Tias and Abuelas, McAllen, TX
47. **Veronica Lazano**, (A) Executive Officer, El Centro Station, USBP, CBP
48. **Ronald LeBlanc**, Patrol Agent In Charge, Deming Station, USBP, CBP
49. **Scott Lloyd**, Director, ORR, HHS
50. **Hector Maesa**, Deputy Patrol Agent In Charge, Lordsburg Station, USBP, CBP
51. **Hector Mancha**, Director Field Operations, El Paso, OFO, CBP
52. **Anne Maricich**, Deputy Director Field Operations, San Diego, OFO, CBP
53. **Mariza Marin**, Watch Commander, San Ysidro Port of Entry, OFO, CBP
54. **Ruben Martin**, Watch Commander, San Diego Headquarters, USBP, CBP
55. **Kevin K. McAleenan**, Commissioner, CBP
56. **Kirsty Macdonald**, Protection Coordinator, Regional Delegation for the United States and Canada, International Committee of the Red Cross (ICRC)
57. **James McHenry**, Director, EOIR, DOJ
58. **Luis Mejia**, Director, Enforcement Programs Division, Admissibility and Passenger Processing, OFO, CBP
59. **Paul Minton**, Program Manager, Admissibility and Passenger Processing, OFO, CBP
60. **Henry Moak**, Juvenile Coordinator, CBP
61. **John Morris**, Division Chief, RGV CPC, USBP, CBP
62. **Kerry Neal**, Senior Child Protection Advisor, UN International Children's Emergency Fund (UNICEF)
63. **Greg Nevano**, Assistant Director Programs, HSI
64. **Cain Nunez**, Deputy Commander, CPC El Centro Station, USBP, CBP
65. **Jamie Ortiz**, Texas Rio Grande Legal Aid, McAllen, TX
66. **Raul Ortiz**, Deputy Chief Patrol Agent, RGV Sector, USBP, CBP
67. **Todd Owen**, Executive Assistant Commissioner, OFO, CBP
68. **Olivia Peña**, Young Center, McAllen, TX
69. **Sister Norma Pimentel**, Catholic Charities, McAllen, TX



70. **Anthony Porvaznik**, Chief Patrol Agent, Yuma Sector Headquarters, USBP, CBP
71. **Ray Provencio**, Assistant Director Field Operations, El Paso, OFO, CBP
72. **Carla Provost**, Chief, USBP, CBP
73. **Carmen Qualia**, Assistant Chief Patrol Agent, RGV CPC, USBP, CBP
74. **Cameron Quinn**, Director, Office of Civil Rights and Civil Liberties
75. **Narcizo Ramos**, Special Operations Supervisor, Laredo North Station, USBP, CBP
76. **Dr. Irwin Redlener**, Director, National Center For Disaster Preparedness, Columbia University
77. **Patricia Renteria**, Program Director, Casa Presidente, Southwest Key, Brownsville, TX
78. **Jolene Reynaga**, Watch Commander, San Luis Port of Entry, OFO, CBP
79. **Carlos Rodriguez**, Director, Southern Operations Command, Hidalgo Port of Entry, OFO, CBP
80. **Silvia Rodriguez**, Civil Rights and Civil Liberties
81. **Matthew Roggow**, Associate Chief, Law Enforcement Operations Directorate, USBP, CBP
82. **Joe Romero**, Supervisory Border Patrol Agent, Sector Communications, USBP, CBP
83. **Victor Roosen**, Regional Disaster Officer, American Red Cross, San Diego Region
84. **Andrea Rudnick**, Team Brownsville, McAllen, TX
85. **Adam Ruiz**, Patrol Agent In Charge, Hebbronville Station, USBP, CBP
86. **Raul Ruiz M.D.**, Congressman, California
87. **Rosa San Luis**, Fuerza del Valle, McAllen, TX
88. **Danielle Salgado**, Young Center, McAllen, TX
89. **Eduardo Sanchez**, Assistant Chief, Headquarters, USBP, CBP
90. **Ofelia De Los Santos**, Catholic Diocese, McAllen, TX
91. **John Schwamm**, Area Port Director, San Luis Port of Entry, OFO, CBP
92. **Charles Seagroves**, Deputy Patrol Agent In Charge, Deming Station, USBP, CBP
93. **Staca Shehan**, Executive Director, Case Analysis Division, National Center for Missing and Exploited Children
94. **Cory Shindel**, Deputy Director of Policy, Kinds in Need of Defense
95. **Bradd Skinner**, Assistant Director Field Operations, Laredo, OFO, CBP
96. **Bernardino Soto**, (A) Deputy Patrol Agent In Charge, San Clemente Station, USBP, CBP
97. **Dr. David Tarantino**, Chief Medical Officer, CBP
98. **Clayton Thomas**, Deputy Patrol Agent In Charge, El Paso Station, USBP, CBP
99. **Katie Tobin**, External Relations – U.S. and Western Hemisphere, UN High Commissioner for Human Rights Regional Office for the USA and the Caribbean
100. **Brandy Urbine**, Program Analyst, CBP
101. **Karla Vargas**, Texas Civil Rights Project, McAllen, TX
102. **Lupita Vargas**, Catholic Diocese, McAllen, TX
103. **Roy Villareal**, Deputy Chief Patrol Agent, San Diego Sector, USBP, CBP
104. **Jay Visconti**, Senior Advisor, Commissioner's Office, CBP
105. **Marianela Watson**, Good Neighbor, McAllen, TX

- 106. **Pat Whipple**, Deputy Patrol Agent In Charge, El Centro Station, USBP, CBP
- 107. **Jack White**, Good Neighbor, McAllen, TX
- 108. **Ross Wilken**, Assistant Chief Patrol Agent, San Diego Sector, USBP, CBP
- 109. **Hector Zuniga**, Regional Executive Director, Southwest Key, Brownsville, TX

## **APPENDIX E – MEETINGS AND SITE VISITS**

### **In Person Meetings:**

- FCCP Subcommittee Members held an in person meeting in Washington, DC, which included participants from CBP, ICE, Civil Rights and Civil Liberties, and HHS.
- FCCP Subcommittee Members held a meeting in Washington, DC, which included participants from CBP; USCIS; DOJ, EOIR; ICE ERO and HSI; National Center for Missing and Exploited Children; and Non-Governmental Organizations (NGO) to include Lutheran Immigration and Refugee Service; U.S. Conference of Catholic Bishops; American Academy of Pediatrics; and Kids in Need of Defense.

### **Site Visits to CBP Facilities, Other Government Agencies and Non-Government Organizations:**

- Members conducted their first site visit to CBP facilities:
  - OFO: San Ysidro and San Luis Port of Entry.
  - USBP: Chula Vista, El Centro, and Yuma Stations.
  - Meetings also held with local NGOs:  
American Red Cross, CRCL, and Hebrew Immigrant Aid Society (HIAS) Border Fellow Jewish Family Services.
- Members conducted a second site visit to CBP facilities:
  - OFO: Hidalgo International Bridge Port of Entry.
  - USBP: Laredo, Hebbronville, RGV Ursula Central Processing Center Stations.
  - Meetings also held with:
    - 10 different local NGOs.
    - Health and Human Service Office of Refugee Resettlement Facility – Casa Presidente, Southwest Key.
- Members conducted a third visit to the El Paso region:
  - OFO: Paso Del Norte Port of Entry.
  - USBP: Clint, Paso Del Norte, Santa Teresa, and Deming Stations.
  - Meeting also held with The Annunciation House, El Paso.

### **FCCP Meetings:**

- Participated in a briefing provided by the CBP Commissioner and USBP Chief regarding the recent death of a child apprehended by CBP.
- Held a meeting with the DHS/CBP Medical Operations Team who provided a briefing on the medical screening process for children in CBP custody.
- Held meeting with Congressman Ruiz, M.D., from California, who provided a briefing regarding legislation he is introducing on medical care and custody.
- Held a conference call with the following global protection organizations:
  - International Committee of the Red Cross (ICRC).
  - UN International Children’s Emergency Fund (UNICEF).
  - UN High Commissioner for Human Rights (UNHCR).
- Held a conference call with Dr. Irwin Redlener, Director, National Center for Disaster Preparedness, Columbia University.

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## APPENDIX G – GLOSSARY OF ACRONYMS

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BIA – Board of Immigration Appeals  
BLM – Bureau of Land Management  
CBP – U.S. Customs and Border Protection  
CIS – Citizenship and Immigration Services  
CPC – Central Processing Center  
CRCL – Civil Rights and Civil Liberties  
DHS – Department of Homeland Security  
DOD – Department of Defense  
DOJ – Department of Justice  
EOIR – Executive Office for Immigration Review  
ERO – Enforcement and Removal Office  
ESF – Emergency Support Function  
FCCP – Families and Children Care Panel  
FEMA – Federal Emergency Management Agency  
FMUA – Family Units Apprehensions  
FOB – Forward Operating Base  
GSA – General Services Administration  
HHS – Health and Human Services  
HSAC – Homeland Security Advisory Council  
ICE – Immigration and Customs Enforcement  
ICRC – International Committee of the Red Cross  
INA – Immigration and Nationality Acts  
MPP – Migrant Protection Protocols  
NAFPI – North American Family Protection Initiative  
NGO – Non-Governmental Organization  
NRF – National Response Framework  
NT – Northern Triangle  
NTA – Notice to Appear  
OFO – Office of Field Operations  
OMB – Office of Management and Budget  
ORR – Office of Refugee Resettlement  
PAIC – Patrol Agent in Charge  
POE – Port of Entry  
RPC – Regional Processing Center  
SBO – Southwest Border Operations  
SWB – Southwest Border  
TDY – Temporary Duty  
TVPRA – Trafficking Victims Protection Reauthorization Act  
UAC – Unaccompanied Children  
UNHCR – UN High Commissioner for Human Rights  
UNICEF – UN International Children’s Emergency Fund  
USBP – U.S. Border Patrol  
USG – United States Government